IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

WEDNESDAY, THE 5TH JANUARY 2007 / 15TH POUSHA, 1928

WP(C).No. 685 of 2007(F)

(ORDER DATED 14.12.2006 IN I.A.2802/06 IN ELECTION O.P.14/05 OF MUNSIFF COURT, ALUVA)

PETITIONER/PETITIONER/PETITIONER

P.K. MUKUNDAN,
S/O. SANKARAPILLAI, AGED 61 YEARS,
DWARAKA PARAT, PARAT LANE,
ALUVA P.O., PIN-683 101.

BY ADV. WILSON URMESE

RESPONDENT/RESPONDENT/RESPONDENT

THOMAS JOSEPH AKKAT,
S/O. JOSEPH AGED ABOUT 38 YEARS,
CHAMMINIKODATH HOUSE, PULINCHODU,
ALUVA P.O.,PIN-683 101.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

W.P.(C)NO.685 OF 2007

DATED THIS THE 5TH DAY OF JANUARY, 2007

JUDGMENT

Petitioner is the petitioner in Election O.P.14/05 on the file of Munsiff Court, Aluva. Respondent is the successful candidate. Election petition was filed to set aside the election of respondent and to get petitioner elected as a successful candidate. The case of petitioner was that there was double voting and election is vitiated for the double voting. After the examination of petitioner and one witness, I.A.2802/06 was filed seeking permission to examine the returning officer and other witnesses. Under Ext.P4 order, it was dismissed. This petition is filed under Article 227 of Constitution of India challenging Ext.P4 order.

2. Arguments of learned Counsel appearing for petitioner was that the question whether election of respondent was vitiated by double voting could be proved only on establishing that the voters, whose names are shown in the election petition, have cast their votes in two booths in the same election and for that purpose, returning officer and voters, who allegedly casted double votes are to be examined. Under Ext.P4, permission was not granted and therefore the

order is to be quashed.

3. On going through Ext.P4 order, it is clear that learned Munsiff did not refuse permission to examine the witnesses or returning officer. Learned Munsiff has only stated that before examination of returning officer, it is to be prima facie shown that there was double voting. Ext.P4 order will not prevent petitioner from examining the witnesses, who allegedly cast double voting first to prove the double voting. At the time of their examination, petitioner is entitled to confront their signature in the counter foils, to show that they have casted their vote. There after petitioner could examine the returning officer. Petitioner is entitled to confront the marked voters list at the time of examination of witnesses.

Writ Petition is disposed

M.SASIDHARAN NAMBIAR,JUDGE

Acd